

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALLSTATE INSURANCE COMPANY a/s/o)	
Tanner D. Allen,)	
)	No.
Plaintiff,)	
)	Judge
v.)	
)	(Formerly case no. 20211012617 (Cir. Ct.
UNITED STATES POSTAL SERVICE,)	Cook County)
)	
Defendant.)	

NOTICE OF REMOVAL

To:	Matek and Mazar, LLC	Circuit Court Clerk of
	77 West Washington	Cook County
	Suite 1313	50 West Washington Street
	Chicago, Illinois 60602	Room 602
		Chicago, Illinois 60602

Defendant United States Postal Service, by its attorney, John R. Lausch, Jr., United States Attorney for the Northern District of Illinois, submits this notice of removal of the above-captioned civil action from the Circuit Court of Cook County, Illinois, to the United States District Court, Northern District of Illinois, pursuant to 28 U.S.C. §1442(a)(1), and in support states the following:

1. In June 2021, plaintiff Allstate Insurance Company filed suit in state court against the Postal Service for property damage to its insured Tanner D. Allen's vehicle allegedly arising from a collision with a Postal Service vehicle. Ex. 1.

2. The Postal Service is a federal agency. Allstate's state court complaint for alleged personal injuries against the Postal Service are therefore actions against an agency or officer under the direction of an agency or officers of the United States for actions under color of law and are subject to removal to this court pursuant to 28 U.S.C. § 1442(a)(1).

3. Sovereign immunity ordinarily shields the federal government, its agencies, and its officials from lawsuits. *FDIC v. Meyer*, 510 U.S. 471, 475 (1994). Furthermore, a party seeking to invoke state court jurisdiction over the United States (or its agencies) has the burden of pointing to a congressional act that gives such consent to suit. *Cole v. United States*, 657 F.2d 107, 109 (7th Cir. 1981). There is no provision giving the state courts jurisdiction over Allstate's tort claims against the Postal Service, and in fact, the Federal Tort Claims Act requires that all such tort actions be filed against the *United States* (not an agency) in *federal* district court. 28 U.S.C. § 1346(b)(1); *Alinsky v. United States*, 415 F.3d 639, 643 (7th Cir. 2005) (concluding that the FTCA grants federal courts jurisdiction over damages claims against the United States for negligence by a government employee); *Midwest Knitting Mills, Inc. v. United States*, 950 F.2d 1295, 1297 (7th Cir. 1991) (asserting that district courts have exclusive jurisdiction over FTCA claims against the United States for injuries).

4. Because the state court lacked jurisdiction over the Postal Service, this court acquires no jurisdiction upon removal, and the Allstate's state court actions against the Postal Service should be dismissed. *Ricci v. Salzman*, 976 F.3d 768, 771 (7th Cir. 2020); *Edwards v. Department of Justice*, 43 F.3d 312, 316 (7th Cir. 1994); *Illinois v. Holmes*, 2017 WL 2345631, *2 (N.D. Ill. May 30, 2017); *Ferto v. Fielder*, 2010 WL 3168293, *2 (N.D. Ill., Aug. 5, 2010); *Dunne v. Hunt*, 2006 WL 1371445, *4 (N.D. Ill., May 16, 2006).

5. Copies of all process, pleadings, and orders received by the Postal Service are attached hereto as exhibit 1.

WHEREFORE, this civil action against the Postal Service is properly removed to this court pursuant to 28 U.S.C. § 1442(a).

Respectfully submitted,

JOHN R. LAUSCH, Jr.
United States Attorney

By: s/ Ernest Y. Ling

ERNEST Y. LING
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-5870
ernest.ling@usdoj.gov

Exhibit 1

Hearing Date: 7/21/2021 9:30 AM - 9:30 AM

2120 - Served

2121 - Served

Courtroom Number: 1102

2220 - Not Served

2221 - Not Served

Location: District 1 Court

2320 - Service by Mail

2321 - Served by Mail

Cook County, IL

2420 - Service by Publication

2421 - Served by Publication

SUMMONS

ALIAS - SUMMONS

(Rev. 8/9/96) CCG-00001

FILED DATE: 6/1/2021 12:00 AM 20211012617

Returnable in ROOM NO. 602,
RICHARD J. DALEY CENTER, 9:30 A.M. Sharp
In the Circuit Court of Cook County, Illinois

FILED 135TT393
6/1/2021 12:00 AM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL

ALLSATE INSURANCE COMPANY OF CANADA
a/s/o TANNER D. ALLEN,

Plaintiff,

vs.

U.S. POSTAL SERVICE,

Defendant,

No. 20211012617

Amount Claimed:\$16,308.55

Return Date:

SERVE: U.S. POSTAL SERVICE
433 W. Harrison St., 2nd floor
Chicago, IL 60699

SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court (located in the Richard J. Daley Center, Room 602, Chicago, Illinois 60602) within 30 days after service of this summons, not counting the day of service.
IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

E-filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <https://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/FAQ/gethelp.asp>.

WITNESS,.....2021

6/1/2021 12:00 AM IRIS Y. MARTINEZ

Clerk of Court

Date of service:.....

(To be inserted by official or person left with
defendant or other person)



Our File#20-06-00001-eg

Name: Matek and Mazar, LLC.

Attorney for Plaintiff

Address: 77 W. Washington, Ste. 1313

City/Zip: Chicago, IL 60602

Telephone: (312) 372-5800

Atty No. 43635

**Service by Facsimile Transmission will be accepted at:

(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

*Law Division Room 801

Chancery Division Room 802

Hearing Date: 7/21/2021 9:30 AM - 9:30 AM
Courtroom Number: 1102
Location: District 1 Court
Cook County, IL

SUBROGATION

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT**

**ALLSATE INSURANCE COMPANY OF
CANADA a/s/o TANNER D. ALLEN,**

Plaintiff,

vs.

U.S. POSTAL SERVICE,

Defendant,

No. 20211012617

Amount Claimed: \$16,308.55

Return Date:

13511393

FILED

6/1/2021 12:00 AM

IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL

COMPLAINT

The Plaintiff, ALLSATE INSURANCE COMPANY OF CANADA a/s/o TANNER D. ALLEN claims as follows:

1. That on April 18, 2019, the Plaintiff's insured was the owner of a certain motor vehicle which was being driven along and upon a public highway in the City of Chicago, County of Cook, and State of Illinois in a/n northbound direction, said highway being known as I-90 at or near the intersection with Armitage Ave.

2. That the Defendant, U.S. POSTAL SERVICE, was in possession and control of another motor vehicle, acting individually or as the agent, servant or employee of the Defendant, which was then and there being driven along and upon a public highway in the City, County and State as aforesaid, in a northbound direction, said highway commonly being known as I-90 at or near the intersection with Armitage Ave.

3. Plaintiff further alleges that at all times immediately prior to and at the time of the occurrence of the incident complained of, Plaintiff's driver was in exercise of due care and caution for their own safety, the safety of others and the safety of their property.

4. That the Defendant driver was guilty of one or more of the following acts of negligence:

- a. operating said motor vehicle in a negligent manner;
- b. operated said motor vehicle at an excessive rate of speed;
- c. failed to give any warning signals to plaintiff;
- d. disregarded traffic signals;
- e. failed to stop said motor vehicle when danger to plaintiff was imminent;

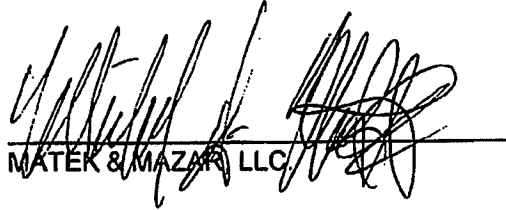
FILED DATE: 6/1/2021 12:00 AM 20211012617

f. failed to yield right of way to plaintiff.

5. That as a direct and proximate result of the negligence of the Defendant, Defendant's motor vehicle collided with Plaintiff's insured's motor vehicle, greatly damaging same and Plaintiff was required to and did expend large sums of money for the necessary repairs thereto, and was further damaged by being deprived of the use of same during the period of said repairs.

6. That Plaintiff is the actual bona fide subrogee by virtue of a contract for insurance between Plaintiff and Subrogor in effect at the time of the incident at issue.

WHEREFORE, Plaintiff, ALLSATE INSURANCE COMPANY OF CANADA a/s/o TANNER D. ALLEN, prays for judgment against the Defendant(s), U.S. POSTAL SERVICE, in the sum of \$16,308.55 plus costs of suit, as provided by Statute.



MATEK & MAZAR, LLC

MATEK & MAZAR, LLC.
notice@matekmazarlaw.com
Attorneys for Plaintiff/Cook 43635
77 West Washington, Ste. 1313
Chicago, IL 60602-2901
(312) 372-5800
File #20-06-00001-eg

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following documents:

Notice of Removal and Attorney Designation

were sent by first class mail, postage paid on August 5, 2021, to the following:

Matek and Mazar, LLC
77 West Washington
Suite 1313
Chicago, Illinois 60602

Circuit Court Clerk of
Cook County
50 West Washington Street
Room 602
Chicago, Illinois 60602

s/ Ernest Y. Ling

ERNEST Y. LING
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